IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No. 20925 of 2004

Between:

Ata-Ur-Rahman, S/o.Mr.Abdul Rahman, aged about 35 years,

Occupation: Fair Price Shop Dealer,
R/o.Ranvelly Village, Kowthala Mandal, Adilabad District

..... PETITIONER

AND

1 The Principal Secretary, Revenue Department,

Government of Andhra Pradesh
Secretariat Building Hyderabad.
2 The Assistant Collector, Asifabad, office at Asifabad Mandal,
Adilabad District.
3 The Mandal Revenue officer, Kowthala Mandal,

Adilabad District A.P.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ more appropriately a writ of Mandamus declaring that the impugned proceeding NO.C/1944/04, dated 30-10-2003 is illegal, void and ultra virus in the interest of justice and equity.

Counsel for the Petitioner: MR.A.M.QURESHI

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following:

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ORDER:

The petitioner is an authorized dealer of the fair price shop of Ranvelly village of Kowthala Mandal. His dealership was cancelled through proceedings dated 30.10.2004, issued by the 2nd respondent, which is under challenge in this writ petition.

2. Admittedly, against the impugned order, an alternative remedy is available under the Statute, by way of an appeal to the Joint Collector. Without exhausting the said alternative remedy, this writ petition cannot be maintained.

3. However, the learned counsel for the petitioner contends that within two days from the date of the impugned order, the respondents issued a notification dated 02.11.2004, calling for applications for appointment of dealer in respect of the fair price shop in question, thereby denying the petitioner the right to avail the statutory remedy of Appeal. I find force in the contention of the learned counsel for the

petitioner. The respondents are not justified in issuing notification for making appointment of dealer in respect of the fair price shop in question, even before the expiry of the time prescribed under the Statute to prefer an appeal against the impugned order.

4. In the circumstances, while granting leave to the petitioner to work out appropriate remedy, as available under the Statute, the writ petition is disposed of, with a direction to the respondents not to proceed further in pursuance of the impugned notification dated 02.11.2004, in respect of fair price shop at Ranwelli is concerned, for a period of 4 (four) weeks from today. No order as to costs.

dsr

ASSISTANT REGISTRAR

To:

1. The Principal Secretary,

Revenue Department,

Government of Andhra Pradesh,

Secretariat Building, Hyderabad

2. The Assistant Collector, Asifabad,

Office at Asifabad Mandal, Adilabad District

3. The Mandal Revenue Officer,

Kowthala Mandal, Adilabad District A.P

4. Two CCs to the Government Pleader for

Civil Supplies, High Court Buildings,

Hyderabad (OUT)

5. Two CD copies.